

REMARKS

A. Restriction Request

Restriction to one of the following inventions was requested by the Examiner:

- I.. Claims 1-39, 42, 54-67, and 78, allegedly drawn to user selection of advertisements, classified in class 725, subclass 34.
- II. Claims 40, 41, 43, 44 and 68-71, allegedly drawn to presenting advertisements only if it has been viewed less than a predetermined number of times, classified in class 725, subclass 36.
- III. Claims 45-53 and 72-77, allegedly drawn to presenting advertisements based on total value for the advertisements presented, classified in class 725, subclass 32.

Applicants, which had provisionally elected the invention corresponding to claims 1-39, 42, 54-67, and 78, hereby re-affirm this election as requested by the Examiner.

B. Cancelled Claims

Claims 1-78 have been cancelled without prejudice, waiver, or disclaimer. As a result, rejections of claims 1-39, 42, 54-67, and 78 have been rendered moot. Applicants are not expressly addressing the validity of all assertions made by the Examiner regarding claims 1-78 since the validity of such assertions are not relevant to the allowance of the currently pending claims 79-104. Therefore, Applicants should not be presumed to agree with any statements made by the Examiner regarding claims 1-78 unless otherwise specifically indicated by Applicants.

C. Official Notice

The Examiner has taken Official Notice that it is allegedly notoriously well known in the art to use factors such as time, date, user's request, number of times viewed or used by viewer(s) etc, to delete old data from memory so that new data can be stored. According to MPEP 2144.03, "It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." MPEP 2144.03 also states that "If such notice is taken, the basis for such reasoning must be set forth explicitly. The Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge." Therefore, Applicants respectfully traverse the Examiner's Official Notice for at least the following reasons:

1. The facts sought to be established by the Official Notices are not capable of "instant and unquestionable demonstration as being well-known."
2. The bases for the Official Notices were not set forth explicitly.
3. The Examiner did not provide specific factual findings predicated on sound technical and scientific reasoning to the support the conclusions of common knowledge.
4. The Examiner failed to cite documentary support for the Official Notices.

D. New Claims

Claim 79-104 have been newly added. The newly added claims 79-104 are adequately supported by the specification, including, but not limited to, FIGS. 9-11 and their related description. Consideration of new claims 79-104 is respectfully requested. The references cited by the Examiner do not disclose, teach, or suggest the combination of any of the newly added claims 79-104.

Claims 79-87

Claims 79-87 are allowable for at least the reason that none of the cited references teach, suggest, or disclose "downloading by the STT an advertisement corresponding to

the category of advertisements, responsive to receiving the user-input.” For example, *Ngo* teaches downloading an advertisement before the advertisement is selected by a user. (FIG. 10, column 7 lines 19-35), and not “responsive to receiving the user-input.”

Claims 88-100

Claims 88-100 are allowable for at least the reason that none of the cited references teach, suggest, or disclose “responsive to receiving the user-input, outputting an advertisement corresponding to the category of advertisements during a subsequent interruption in a television program.” For example, *Ngo* teaches displaying an advertisement instantly in response to user-input (FIG. 10, column 7, lines 28-33), and not “during a subsequent television interruption in a television program.”

Claims 101-102

Claims 101-102 are allowable for at least the reason that none of the cited references teach, suggest, or disclose “a processor that is programmed by the program code to enable the STT to download responsive to user input an advertisement corresponding to a category of advertisements selected by the user input from a the list of advertisement categories.” For example, *Ngo* teaches downloading an advertisement before the advertisement is selected by a user. (FIG. 10, column 7 lines 19-35), and not “download responsive to user input.”

Claims 103-104

Claims 103-104 are allowable for at least the reason that none of the cited references teach, suggest, or disclose “a processor that is programmed by the program code to enable the STT to output responsive to user input an advertisement corresponding to a category of advertisements during a subsequent interruption in a television program, wherein the category of advertisements is selected by the user-input from a list of advertisement categories.” For example, *Ngo* teaches displaying an advertisement instantly in response to user-input (FIG. 10, column 7, lines 28-33), and not “during a subsequent interruption in a television program.”

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 79-104 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,

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